

MISSOURI-KANSAS-TEXAS RAILROAD COMPANY

LAW DEPARTMENT
701 COMMERCE STREET
DALLAS, TEXAS 75202

ARTHUR M. ALBIN
General Counsel

214-651-6740

RECORDATION NO. 14724 Filed 1426

JUN 28 1985 -3 12 PM

No. 5-178A111
Date JUN 28 1985
Fee \$ 10.00
ICC Washington, D.C.

In reply refer to: 410.043-105

June 25, 1985

INTERSTATE COMMERCE COMMISSION

Mr. James Bayne
Secretary
Interstate Commerce Commission
12th and Constitution Ave., N.W.
Washington, D.C. 20423

Re: Lease of Railroad Equipment dated as of May 31,
1985, between CIS Rail Corporation and Missouri-
Kansas-Texas Railroad Company

Dear Mr. Bayne:

I have enclosed an original and four (4) counterparts of the document described below, to be recorded pursuant to Section 11303 of Title 49 of the U.S. Code.

This document is a Lease, a primary document, dated as of the 31st day of May, 1985.

The names and addresses of the parties to the document are as follows:

Lessor: CIS Rail Corporation
909 Montgomery St., 3rd Floor
San Francisco, CA 94132
Attn: Mr. Stephen C. Bieneman

Lessee: Missouri-Kansas-Texas Railroad Company
701 Commerce Street
Dallas, TX 75202
Attn: Mr. Karl R. Ziebarth

A description of the equipment covered by the document follows:

One (1) General Motors Corporation (Electromotive Division)
Model SD-40-2, 3,000 horsepower locomotive constructed in
1979 pursuant to Specification 8087, and rebuilt pursuant
to the Locomotive Manufacturing Agreement dated as of
December 20, 1984, between CIS Rail Corporation and
Missouri-Kansas-Texas Railroad Company, bearing MKT's
road number 637.

A cashier's check in the amount of \$10.00 is enclosed for the filing fee. Please send one file-marked counterpart to Mr. Archie C. Thomas, Jr., The Alcoa Building, One Maritime Plaza, San Francisco, CA 94111, and return the remaining counterparts not needed by the Commission for recordation, stamped to show recordation, to the undersigned for further distribution to the parties.

ICC OFFICE OF
THE SECRETARY
JUN 28 3 02 PM '85
MOTOR OPERATING UNIT

MISSOURI-KANSAS-TEXAS RAILROAD COMPANY

LAW DEPARTMENT

Mr. James Bayne

- 2 -


June 25, 1985

A short summary of the document to appear in the Index follows:

One (1) General Motors Corporation (Electromotive Division) Model SD-40-2, 3,000 horsepower locomotive constructed in 1979 pursuant to Specification 8087, and rebuilt pursuant to the Locomotive Manufacturing Agreement dated as of December 20, 1984, between CIS Rail Corporation and Missouri-Kansas-Texas Railroad Company, bearing MKT's road number 637.

I certify that I have knowledge of the foregoing.

Yours very truly,


Arthur M. Albin,
General Counsel

AMA:vas
Enclosures

Interstate Commerce Commission
Washington, D.C. 20423

6/28/85

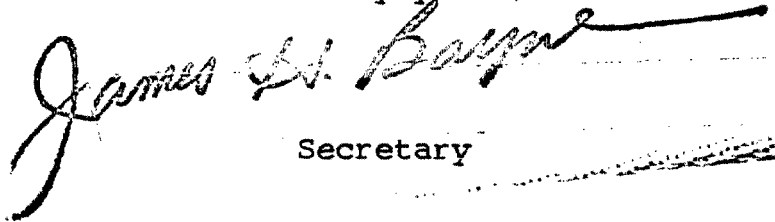
OFFICE OF THE SECRETARY

Mr. Arthur M. Albin
Missouri-Kansas Texas Railroad Company
701 Commerce Street
Dallas, Texas 752202

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 6/28/85 at 3:10pm and assigned re-recording number(s). 14724

Sincerely yours,


Secretary

Enclosure(s)

LEASE

JUN 28 1985 -3 12 PM

INTERSTATE COMMERCE COMMISSION

LEASE OF RAILROAD EQUIPMENT, dated as of May 31, 1985, between CIS Rail Corporation, a California corporation (hereinafter called Lessor), and Missouri-Kansas-Texas Railroad Company, a Delaware corporation (hereinafter called Lessee).

W I T N E S S E T H

WHEREAS, Lessee desires to lease the SD40-2 locomotive that is the subject of the Locomotive Manufacturing Agreement of even date herewith between Lessor and Lessee; as described on Schedule A attached hereto (hereinafter called the Equipment) from Lessor;

WHEREAS, upon completion by Lessee of the manufacture of the Equipment pursuant to said Locomotive Manufacturing Agreement, Lessor shall make payments to Lessee in the total amount of \$760,710 (hereinafter called the Purchase Price) pursuant to said Locomotive Manufacturing Agreement; and

WHEREAS, it is contemplated that Lessor will arrange permanent financing from an institutional lender (hereinafter called the Lender or Assignee) in connection with its purchase of the Equipment and that said Lender will require Lessor to enter into a security agreement (hereinafter called the Security Agreement) creating a security interest in the Equipment in favor of the Lender in connection with such permanent financing;

NOW, THEREFORE, it is hereby agreed as follows:

Section 1. Delivery. (1) On the date of payment (hereinafter called the Payment Date or lease commencement date) by Lessor to Lessee of the amounts specified in the aforesaid Locomotive Manufacturing Agreement, the Equipment shall be deemed delivered by Lessor to Lessee for all purposes hereunder. Lessee hereby acknowledges that as of the Payment Date the Equipment shall be deemed to be in good order and, without further instrument of lease or transfer, to be subject to all the terms and conditions of this Lease.

(2) Lessee shall not by virtue of this Lease or the possession or use of the Equipment by Lessee under or pursuant to this Lease or of anything permitted to be done by Lessee hereunder in respect of the Equipment, acquire title to or any equity in the Equipment. Any rights of Lessee in respect to the Equipment shall constitute a leasehold interest only.

SECTION 2. Term of Lease; Termination. (1) The term of this Lease as to the Equipment shall commence upon the Payment Date and, subject to the provisions of Section 18 hereof, shall terminate on December 31, 1995.

(2) Subject to the provisions of Section 4 hereof, from and after the date of execution hereof until the expiration or termination of the term hereof, this Lease shall not be subject to termination by Lessor, except pursuant to Section 18 hereof upon the occurrence of an Event of Default, or by Lessee.

SECTION 3. Rentals. (1) Lessee agrees to pay to Lessor as rental for the Equipment the following amounts:

(a) On the last day of each month commencing January 31, 1986, and on the last day of each month thereafter during the term of this Lease (each such date being a "Rental Payment Date"), Lessee shall pay to Lessor an amount equal to the applicable rental set forth in Schedule B attached hereto. The first Rental Payment Date shall be January 31, 1986. Rental for the Equipment for the period from the lease commencement date to and including December 31, 1985 shall be based on the per diem interim rental rate set forth in Schedule B hereto and shall be payable on the last day of each month during said interim rental period.

(b) Sums sufficient to enable the Lessor to meet the out-of-pocket expenses incurred by Lessor in connection with the institution of any action or proceeding to enforce the terms hereof; provided, however, that Lessee shall have no liability hereunder with respect to out-of-pocket expenses incurred by Lessor in the course of administration and performance (as distinct from the enforcement) of said instruments. All rentals accrued pursuant to this paragraph (b) shall be payable by Lessee from time to time forthwith upon delivery to Lessee of an invoice or invoices setting forth the amount of such rentals then due.

(2) Lessee will pay, to the extent legally enforceable, interest at the greater of 14.5% per annum or 2% per annum in excess of the rate of interest announced from time to time by Chemical Bank as its "prime rate" (hereinafter called the "Prime Rate") upon all rentals remaining unpaid after the same shall have become due and payable under any of the provisions of this Lease, anything herein contained to the contrary notwithstanding.

(3) All computations hereunder shall be made on the basis of a 360-day year of actual days.

(4) All payments provided for in this Lease, other than rentals accrued pursuant to subparagraph (b) of paragraph (1) of this Section 3, and any other payments hereunder not assigned, shall be paid in lawful money of the United States in immediately available funds at such place as any assignee of any such payments shall reasonably require. It is agreed that payment by draft satisfies this requirement. If any of the rental payment dates referred to above is not a business day the rental payment otherwise payable on such date shall be payable on the next succeeding business day. The term "business day" as used herein means a calendar day, excluding Saturdays, Sundays and any other day on which banking institutions in New York, New York, and/or Dallas, Texas are authorized or obligated to remain closed.

(5) This Lease is a net Lease and Lessee shall not be entitled to any abatement of rent, reduction thereof (except as otherwise expressly provided herein) or setoff against rent, including, but not limited to, abatements, reductions or setoffs due or alleged to be due to, or by reason of, any past, present or future claims of Lessee against Lessor under this Lease or otherwise; nor except as otherwise expressly provided herein shall this Lease terminate, or the respective obligations of Lessor or Lessee be otherwise affected, by reason of any defect in or damage to or loss of possession or loss of use of or destruction of all or any of the Equipment from whatsoever cause, the prohibition of or other restriction against Lessee's use of all or any of the Equipment, the interference with such use by any private person or entity, the invalidity or unenforceability or lack of due authorization of this Lease, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts payable by Lessee hereunder shall continue to be payable in all events in the manner and at the times herein provided unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease.

SECTION 4. Subordination of Lease to Security Agreement.

(1) Anything herein to the contrary notwithstanding, this Lease and the interest of Lessee in the Equipment shall in all respects be subject and subordinated to all the terms, conditions and provisions of the Security Agreement, and the documents described therein, including the remedies therein upon the happening of an event of default to be defined therein.

(2) If an event of default, as defined in the Security Agreement, or the documents described therein, shall occur and

Assignee exercises any of the remedies to which it is entitled thereunder and thereby acquires the interest of Lessor under the Lease, Lessee agrees to attorn to Assignee or its nominee or designee and recognize Assignee or said nominee or designee as its Lessor under the Lease and, in such event, the Lease shall continue in full force and effect as a direct lease between Assignee or said nominee or designee and Lessee upon all the then executory terms, covenants and conditions of the Lease, except that Assignee shall not (i) be liable for any previous act or omission by Lessor under the Lease or (ii) be subject to any offset which shall have theretofore accrued to Lessee against Lessor. Upon request of Assignee, Lessee shall promptly execute and deliver to Assignee an agreement confirming Lessee's attornment.

SECTION 5. Covenants, Representations and Warranties

(a) Lessor covenants, represents and warrants that:

- (i) As of the lease commencement date, the Equipment shall be free and clear of all liens and encumbrances of any nature whatsoever arising out of any act or omission of Lessor, except only the rights of Lessee hereunder and the title and interest of Assignee under the Security Agreement and the documents described therein.
- (ii) It is a duly organized and validly existing corporation in good standing under the laws of the State of California, qualified to do business in all jurisdictions in which qualification is required in order for it to carry out the transactions contemplated by this Lease; and it is empowered and authorized to own its properties and carry on its business as now or hereafter conducted.
- (iii) The execution and delivery of this Lease have been duly authorized and will not contravene any provision of law or of its articles of incorporation or by-laws and will not contravene or constitute a default under the provisions of any agreement or other instrument binding upon it; and this Lease is a valid and binding obligation of the Lessor.
- (iv) To the best of its knowledge, no governmental authorization or approvals are required for the execution and delivery of this Lease or for the validity and enforceability hereof or for the leasing of the Equipment hereunder for the rentals and on the other terms and conditions herein provided.

- (v) No litigation or administrative proceedings are pending or, to the best knowledge of Lessor, threatened against Lessor, the adverse determination of which would affect the validity of this Lease or the rights of Lessor or its successors hereunder.
- (b) Lessee covenants, represents and warrants that:
- (i) It is a duly organized and validly existing corporation in good standing under the laws of the State of Delaware, qualified to do business in all jurisdictions in which qualification is required in order for it to carry out the transactions contemplated by this Lease; and it is empowered and authorized to own its properties and carry on its business as now or hereafter conducted.
 - (ii) The execution and delivery of this Lease are within its corporate powers, have been authorized by proper corporate proceedings and will not contravene any provision of law, governmental rule or regulation, judgment or order applicable to the Lessee, or of its charter or by-laws and do not and will not contravene any provision of or constitute a default under the provisions of any indenture, mortgage, contract or other agreement or instrument binding upon it; and this Lease is a valid and binding obligation of the Lessee which is enforceable against the Lessee in accordance with its terms..
 - (iii) No giving of notice to, registration with or taking any action in respect of or by any federal, state or local governmental body is required and no governmental authorization or approvals are required for the execution and delivery of this Lease or for the validity and enforceability hereof or for the leasing of the Equipment hereunder for the rentals and on the other terms and conditions herein provided, or, if any such actions or approvals are so required they have been so given and/or obtained, and, if any such approvals are hereafter required, they will be promptly obtained.
 - (iv) No litigation or administrative proceedings are pending or, to the best knowledge of Lessee, threatened against or affecting Lessee in any court or before any governmental body, the adverse determination of which would affect the validity of this Lease, the rights of Lessor or

its successors hereunder, or the ability of Lessee to perform its obligations under the Lease.

- (v) The Lessee is not in default under any material obligation for the payment of borrowed money, the deferred purchase price of property, or rent under any lease of real or personal property, and no event that, with the lapse of time or the giving of notice or both, would constitute a default under any thereof, has occurred and is continuing.
- (vi) The Lessee has filed all tax returns that are required under the laws of the United States and any state or subdivision thereof and has paid all taxes shown to be due and payable, and there are no Federal tax liens filed against the Lessee.
- (vii) The balance sheet and the related statement of income and statement of changes in financial position of the Lessee, or the consolidated group of which the Lessee is a member, heretofore delivered to the Lessor, have been prepared in accordance with generally accepted accounting principles and fairly present the financial position of the Lessee or such consolidated group, as the case may be, on and as of the date thereof, and the results of its operations for the period or periods covered thereby; and since the date of such balance sheet and statement, there has not been any material adverse change in the financial condition or results of operations of the Lessee or such consolidated group.
- (viii) Neither the Lessee nor any person acting on its behalf has directly or indirectly offered or sold any interest in the indebtedness secured by the Security Agreement, other securities, the Equipment, or the lease obligations of the Lessee to, solicited offers to buy any such interest from, or otherwise approached or negotiated in respect of the purchase and sale or other disposition of any such interest with, any person so as to bring the transactions contemplated by this agreement within the provisions of section 5 of the Securities Act of 1933, as amended and neither the Lessee nor any person acting on its behalf shall do so.
- (ix) The Lessee is not entering into this agreement or the Lease in connection with any arrangement or understanding in any way involving any employee

benefit plan or related trust (other than a governmental plan) with respect to which it, or its knowledge the Lessor or any other party, or any affiliate of any of them, is a party in interest, all within the meaning of the Employee Retirement Income Security Act of 1974, as amended, or the Internal Revenue Code of 1954, as amended.

SECTION 6. Taxes. All payments to be made by Lessee hereunder will be free of expense to Lessor and Assignee for collection or other charges and will be free of expense to Lessor and Assignee with respect to the amount of any local, State or Federal taxes (other than the Federal income tax payable by Lessor in consequence of the receipt of payments provided herein and other than State or city income taxes or franchise taxes measured by net income based on such receipts, up to the amount of any such taxes which would be payable to the State and city in which Lessor has its principal place of business without apportionment to any other state, except any such tax which is in substitution for or relieves Lessee from the payment of taxes which it would otherwise be obligated to pay or reimburse as herein provided), assessments or license fees (and any charges, fines or penalties in connection therewith) hereafter levied or imposed upon or in connection with or measured by, this Lease or any rental, use, payment, shipment, delivery or transfer of title under the terms hereof or any assignment or participation or interest in any assignment hereof, all of which expenses, taxes, assessments, license fees, charges, fines and penalties Lessee assumes and agrees to pay on demand in addition to the payments to be made by it provided for herein. Lessee will also pay promptly all taxes (other than taxes referred to in the first parenthetical of this Section 6), assessments or license fees (and any charges, fines or penalties in connection therewith) which may be imposed upon any part of the Equipment or for the use or operation thereof or upon the earnings arising therefrom or upon Lessor or Assignee solely by reason of its ownership thereof, and will keep at all times all and every part of the Equipment free and clear of all taxes and assessments which might in any way affect the title of Lessor or Assignee or result in a lien upon any part of the Equipment and will supply Lessor and Assignee with a receipt or other evidence of such payment satisfactory to Lessor and Assignee; provided, however, that Lessee shall be under no obligation to pay any taxes, assessments, license fees, charges, fines or penalties of any kind (hereinafter called "impositions") so long as it is contesting in good faith and by appropriate legal proceedings such impositions and the nonpayment thereof does not, in the reasonable advance opinion of Lessor and Assignee, adversely affect the property or rights of Lessor or Assignee hereunder or under the Security Agreement, or other documents described

therein. If any impositions shall have been charged or levied against Lessor or Assignee directly and paid by Lessor or Assignee, Lessee shall reimburse Lessor or Assignee as the case may be, on presentation of an invoice therefor.

In the event that, during the continuance of this Lease, Lessee becomes liable for the payment or reimbursement of any impositions, pursuant to this Section 6, such liability shall continue, notwithstanding the expiration of the term of this Lease, until all such impositions are paid or reimbursed by Lessee.

SECTION 7. Insurance. Lessee will maintain at its sole cost and expense at all times during the continuance of this Lease (and thereafter pending delivery of the Equipment to Lessor pursuant to this Lease and so long as the Equipment shall be stored by Lessee) general liability insurance policies, with Lessor named as an additional insured, which shall protect Lessor against risks arising out of the condition, maintenance, use and operation of the Equipment, having limits for bodily injury or death of not less than \$25,000,000 and limits for property damage occurring to the property of others of not less than \$4,000,000, per occurrence. Such policies may have such deductibles as are usual and customary for Class I railroads operating within the United States. It is acknowledged by the parties that as of the date hereof the deductibles on Lessee's current policies do not exceed \$1,000,000. Lessor shall be furnished with certificates of all such policies, which certificates shall provide that in the event of material change or cancellation of any such policy the company issuing such certificate (s) will provide Lessor with ten days' prior written notice thereof. If Lessee shall fail to provide for the foregoing insurance, Lessor may procure such insurance, and Lessee shall, upon demand, reimburse Lessor for all outlays for such insurance, with interest thereon computed at the greater of 16.5% per annum or 2% per annum over the Prime Rate. As used in this Section 7, the term "Lessor" shall include any assignee of Lessor (including Assignee). Lessor at its option, cost and expense may obtain policies of insurance providing coverage with respect to the Equipment in addition to the coverage required by this Section 7 to be maintained by Lessee. Lessee will also carry and maintain at its sole cost and expense with respect to the Equipment such other insurance as is at least comparable in amounts and against risks customarily insured against by the Lessee in respect of equipment owned or leased by it similar in nature to the Equipment.

SECTION 8. Payment for Casualty Occurrences. (1) In the event that the Equipment shall be or become worn out, lost, stolen, destroyed or irreparably damaged, from any cause whatsoever, or taken or requisitioned by condemnation or

otherwise by the United States Government for a period which shall exceed the then remaining term of this Lease or by any other governmental entity resulting in loss of possession by the Lessee for a period of 90 consecutive days or until the end of the term of this Lease (such occurrences being hereinafter called "Casualty Occurrences") during the term of this Lease, Lessee shall within thirty days after it shall have determined that the Equipment has suffered a Casualty Occurrence, fully inform Lessor and Assignee in regard thereto. On the next succeeding Rental Payment Date, Lessee shall pay to Lessor an amount equal to the accrued rental for such Equipment to the date of such payment plus a sum equal to the Casualty Value of such Equipment as of the date of such payment in accordance with Schedule C hereto. Upon the making of such payment by Lessee in respect of such Equipment, the rental for the Equipment shall cease to accrue as of the date of such payment, the term of this Lease as to the Equipment shall terminate and (except in the case of the loss, theft or complete destruction of such Equipment) Lessor shall be entitled to recover possession of such Equipment. Except as hereinabove in this Section 8 provided, Lessee shall not be released from its obligations hereunder in the event of any Casualty Occurrence to the Equipment after the lease commencement date.

(2) Lessor hereby appoints the Lessee its agent to dispose of the Equipment if it has suffered a Casualty Occurrence at the best price obtainable on an "as is, where is" basis. Provided that the Lessee is not in default under this Lease and has made all payments required by this Lease, the Lessee shall be entitled to the proceeds of such sale (net of expenses) to the extent they do not exceed the Casualty Value of the Equipment and shall pay any excess to the Lessor.

SECTION 9. Maintenance and Repair. (1) Lessee, at its own cost and expense, will at all times (i) maintain and keep the Equipment in as good operating order, repair and condition as when delivered pursuant to Section 1 hereof, ordinary wear and tear excepted, and in as good operating order, repair and condition as other equipment of similar type and vintage owned or leased by Lessee, (ii) maintain the Equipment as installed as an operating and functional part of its business, (iii) replace any part of the Equipment which shall be or become worn out, lost, stolen, destroyed or, in the opinion of the Lessee, irreparably damaged, from any cause whatsoever, with like kind equipment that is functionally equivalent to the part of the Equipment being replaced, and, (iv) subject to the provisions of Section 8 hereof, in case of damage by fire, accident or otherwise to the Equipment will promptly repair the Equipment and restore it to operating order, all without expense to Lessor.

(2) All parts and accessories installed on, incorporated in or attached to the Equipment or any part thereof and any replacements thereto shall be considered accessions to the

Equipment and, without cost or expense to Lessor, full ownership thereof shall be immediately vested in Lessor.

SECTION 10. Compliance with Laws, Rules and Regulations. During the term of this Lease, Lessee will comply in all respects (including without limitation, with respect to the use, maintenance and operation of the Equipment) with all laws, rules and regulations of the jurisdictions in which its operations involving the Equipment may extend, with the interchange rules of the Association of American Railroads (or of any successor thereto) and with all lawful rules of the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Equipment, to the extent that such laws, rules and regulations affect the operation, maintenance or use of the Equipment or any additional equipment or appurtenances thereof; and in the event that such laws, rules or regulations require alteration of any of the Equipment, Lessee will conform therewith, at its expense, and will maintain the Equipment in proper condition for operation under such laws, rules and regulations; provided, however, that Lessee may, in good faith, contest the validity or application of any such law, rule or regulation in any reasonable manner which does not, in the advance opinion of Lessor and Assignee adversely affect the property or rights created or purported to be created hereunder.

SECTION 11. Reports and Inspections. (1) During the term of this Lease, Lessee will furnish, on or before February 15 in each year, commencing with the year 1986, to Lessor and Assignee an accurate statement, signed by the President, a Vice President or the Chief Engineer of Lessee, describing any casualty which occurred during the preceding year and containing such other information regarding the condition and state of repair of the Equipment as Lessor may reasonably request. Such statement shall also include a complete summary of all repairs to the Equipment made during the preceding year, including a description of all replacement parts. Lessor and Assignee shall have the right, by its agents, but shall be under no obligation, to inspect the Equipment and the records of Lessee relating to the Equipment and to Lessee's obligations hereunder at any reasonable times during the continuance of this Lease.

(2) Lessee agrees to prepare and deliver to Lessor and Assignee within a reasonable time prior to the required date of filing (or, to the extent permissible, file on behalf of Lessor or Assignee) any and all reports to be filed by Lessor or Assignee with any Federal, State or other regulatory authority by reason of the ownership of Lessor or Assignee of the Equipment or the leasing by Lessor thereof to Lessee.

SECTION 12. Possession and Use. Subject to the provisions of Section 4 hereof, Lessee, in the absence of the occurrence or continuance of an Event of Default hereunder, shall be entitled to the possession, use and quiet enjoyment of the Equipment and to the use thereof, but only upon and subject to all the terms and conditions of this Lease. Lessee shall not, without the prior written consent of Lessor, part with the possession or control of the Equipment or suffer or allow the Equipment to pass out of its possession or control; provided however, so long as no Event of Default exists hereunder, the Lessee shall be entitled to the possession of the Equipment and to the use of the Equipment by it or any affiliate of the Lessee upon lines of railroad owned or operated by it or any such affiliate or upon lines of railroad over which the Lessee or any such affiliate has trackage or other operating rights or over which railroad equipment of the Lessee or any such affiliate is regularly operated pursuant to contract and shall be entitled to permit the use of the Equipment upon connecting and other carriers in the usual interchange of traffic or pursuant to run-through agreements, locomotive pooling or exchange agreements and to assign its rights to the Equipment or to sublease the Equipment to any of its affiliates or to the Missouri Pacific Railroad Company, but only upon and subject to all the terms and conditions of this Lease.

SECTION 13. Prohibition against Liens. Lessee, at its own expense, will promptly pay or cause to be paid, or otherwise satisfy and discharge, any and all sums claimed by any party by, through or under Lessee or its successors or assigns which, if unpaid, might become a lien or a charge upon the Equipment, or the rentals payable by Lessee hereunder, equal or superior to the title or claim of Lessor thereto, but shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings in any reasonable manner and the nonpayment thereof does not, in the reasonable opinion of Lessor or Assignee, adversely affect the property or rights created or purported to be created hereunder.

SECTION 14. Lessee's Indemnities. Lessee agrees to indemnify and save harmless Lessor, Assignee and any person in whom title to the Equipment may be vested, and any assignee of any interest in this Lease from and against all losses, damages, injuries, liabilities, claims, suits, judgments, costs, expenses and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including counsel fees, arising out of the entering into or the performance of this Lease, the Security Agreement, or the documents described therein, or the ownership of the Equipment

by Lessor, Assignee or any assignee, or the use and operation of the Equipment by Lessee or any other person during the continuance of this Lease; provided that Lessee shall not be liable for any costs and expenses incurred by Lessor or Assignee, including counsel fees, except to the extent otherwise agreed in writing, incurred in connection with the negotiation and preparation of this Lease and the documents described therein. Notwithstanding the foregoing, Lessee shall not be required to make any indemnification for any claim which arises from the gross negligence or willful misconduct of Lessor. In the event Lessee is required to indemnify any person under this Section 14, Lessee shall pay the person indemnified an amount which, after deduction of all taxes required to be paid by said person in respect of the receipt thereof under the laws of the United States or of any state or of any political subdivision thereof (after giving credit for any savings in respect of any such taxes by reason of deductions, credits, or allowances in respect of the payment of the expense indemnified against and of any other such taxes), shall be equal to the amount of such required indemnity. This

covenant of indemnity shall continue in full force and effect notwithstanding the termination of this Lease in any manner whatsoever, and/or the complete discharge by Lessee of its obligations under this Lease.

SECTION 15. Warranties. LESSOR MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESSED OR IMPLIED, AS TO THE FITNESS, DESIGN OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN THE EQUIPMENT LEASED BY LESSEE HEREUNDER, AND LESSOR MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS OF THE EQUIPMENT FOR ANY PARTICULAR PURPOSE OR AS TO ANY PATENTED FEATURES THEREOF OR AS TO THE TITLE THEREOF OR ANY COMPONENT THEREOF, OR AS TO THE INTEREST THEREIN OF LESSOR, it being agreed that all such risks, as between Lessor and Lessee, are to be born by Lessee.

SECTION 16. Patent Indemnity. Lessee hereby agrees to indemnify, protect and hold harmless Lessor, Assignee and any person in whom title to the Equipment may be vested, and any assignee of an interest in this Lease, from any and all liability, claims, demands, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against Lessor, Assignee or any such person or assignee because of the use in or about the construction or operation of the Equipment or any part thereof, of any design specified by Lessee, or articles and materials specified by Lessee and not manufactured by the manufacturer of such Equipment, which infringes or is claimed to infringe, on any patent or other right.

SECTION 17. Assignment. (1) All or any of the rights, benefits and advantages of Lessor hereunder, including without limitation the right to receive payment of rental or any other payment under this Lease, may be assigned or transferred by Lessor and reassigned or retransferred by any assignee at any time and from time to time. No such assignment shall relieve Lessor from or, unless expressly provided to that effect, subject any assignee to any obligation of Lessor hereunder. To the extent assigned, all rights of Lessor hereunder (including, but not limited to, the rights under Section 18 hereof) shall inure to the benefit of Lessor's assigns. If Lessor shall give written notice to Lessee stating the identity and post-office address of any assignee entitled to receive future rentals and/or other sums payable by Lessee hereunder, Lessee shall thereafter make the payments designated in such notice to the designated assignee.

(2) Lessee, without the prior written consent of Lessor, shall not sell, assign, transfer or encumber its leasehold interest under this Lease or sublet the Equipment or any part thereof, except to the extent that the provisions of any existing mortgages or indentures affecting property of Lessee may attach to the leasehold interest of Lessee or require the same to be subjected thereto and except that Lessee may assign

and transfer its leasehold interest hereunder in the Equipment and the possession thereof to any railroad which shall have duly assumed by a written instrument satisfactory to Lessor and Assignee all of the obligations hereunder of Lessee and into or with which Lessee shall have merged or consolidated or which railroad shall have acquired the property of Lessee as an entirety or substantially as an entirety. Any assignment prohibited by this Section shall be void.

SECTION 18. Events of Default; Remedies. (1) If, during the continuance of this Lease, one or more of the following events (herein called "Events of Default") shall occur and be continuing:

- (a) default shall be made in the payment of any part of the rental provided in Sections 3 or 20 hereof and such default shall continue for ten (10) days; or
- (b) Lessee shall make or permit any unauthorized assignment or transfer of this Lease or of possession of the Equipment; or
- (c) default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of Lessee contained herein and such default shall continue unremedied for 30 days after written notice from Lessor or the Assignee to Lessee specifying the default and requesting that the same be remedied; or
- (d) a decree or order by a court or other public body or authority having jurisdiction in the premises shall have been entered and not dismissed within sixty days thereafter
 - (1) adjudging Lessee a bankrupt or insolvent, or
 - (2) approving as properly filed a petition seeking reorganization of Lessee under Title 11 of the United States Code or any other State or Federal law relating to bankruptcy or insolvency;
 - (3) for the appointment of a receiver or liquidator or trustee in bankruptcy or insolvency of Lessee or of its property or any substantial portion of its property, or
 - (4) for the winding-up or liquidation of affairs, of Lessee, and within thirty (30) days thereafter the obligations of Lessee hereunder shall not have been assumed by the receiver or trustee, if any, in such proceedings, pursuant to a decree or order of such court or otherwise, in such manner

that they shall have been given a status comparable to that of obligations incurred by a receiver in bankruptcy or insolvency proceedings which cannot later be rejected by a plan or reorganization;

- (e) any representation or warranty made by the Lessee in this Lease or any document delivered by Lessee in connection herewith shall prove to be incorrect in any material respect when made or given;

then, in any such case Lessor, at its option, may:

- (I) proceed by appropriate court action or actions either at law or in equity, to enforce performance by Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof; or

- (II) by notice in writing to Lessee terminate this Lease as of a date not less than ten (10) days after such notice, whereupon all right of Lessee to the use of the Equipment shall absolutely cease and terminate as though this Lease had never been made, but Lessee shall remain liable as herein provided; and thereupon Lessee shall deliver possession of the Equipment to Lessor in accordance with Section 19 hereof and Lessor may by its agents enter upon the premises of Lessee or other premises where the Equipment may be and take possession of the Equipment and thenceforth hold, possess and enjoy the same free from any right of Lessee, or its successors or assigns, to use the Equipment for any purposes whatever; but Lessor shall, nevertheless, have a right to recover from Lessee any and all amounts which under the terms of this Lease may be then due or which may become due and unpaid, including rentals accruing hereunder after the date of default (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and denominator is the total number of days in such full rental period) and also to recover forthwith from Lessee:

- (i) as damages for loss of the bargain and not as a penalty, a sum, with respect to the Equipment, which represents the excess of (x) the present worth, at the time of such termination, of the aggregate of the rentals for the Equipment which would otherwise have accrued hereunder from the date of such termination by its terms but for the Event of Default which resulted in termination hereunder over (y) the then present worth of the fair rental value of such Equipment for such period, such present value to be computed in each case on a basis of 10% per annum discount, compounded semi-annually from the

respective dates upon which rentals would have been payable hereunder had this Lease not been terminated; plus interest commencing on the date of such notice on such excess at the Prime Rate as of the date of such notice. Such present worths are to be computed in each case by discounting such rental payments at a rate of 10% per annum compounded semiannually from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated.

- (ii) any damages or expenses, including reasonable attorney's fees, in addition thereto which Lessor shall have sustained by reason of the breach of any covenant or covenants of this Lease other than for the payment of rental, including, without limitation, expenses of sale or re-leasing (including incidental transportation costs incurred by Lessor), and
- (iii) apply moneys then held by it hereunder to amounts due to Lessor hereunder, including damages and expenses referred to in Clause (ii) of this Section 18.

2. Lessor may at its election waive any Event of Default and its consequences and rescind and annul any such notice of termination or notice of sale of the Equipment by notice to Lessee in writing to that effect, and thereupon the respective rights of the parties shall be as they would have been if no Event of Default had occurred and no such notice had been given. Notwithstanding the provisions of this paragraph, it is expressly understood and agreed by Lessee that time is of the essence of this Lease and that no such waiver, rescission or annulment shall extend to or affect any other or subsequent default or impair any rights or remedies consequent thereon.

3. Each and every power and remedy hereby specifically given to Lessor shall be in addition to every other power and remedy specifically so given or now or hereafter existing at law or in equity, and each and every power and remedy may be exercised from time to time or simultaneously and as often and in such order as may be deemed expedient by Lessor. All such powers and remedies shall be cumulative and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay or omission of Lessor in the exercise of any power or remedy herein provided or otherwise available to Lessor and no renewal or extension of any payments due hereunder or other indulgence duly granted to Lessee shall impair any such power or remedy or shall be construed to be a waiver of any default or any acquiescence therein. Acceptance by Lessor of any payment after it shall have become due here-

under shall not be deemed to alter or affect Lessee's obligations or Lessor's rights hereunder with respect to any subsequent payments or any prior or subsequent default hereunder. In the event that Lessor shall bring any suit to enforce any of its rights hereunder and shall be entitled to judgment, then in such suit Lessor may recover reasonable expenses, including attorneys' fees, and the amount thereof shall be included in such judgment.

4. Lessee hereby waives any mandatory requirements of law, now or hereafter in effect, which might limit or modify any of the remedies herein provided, to the extent that such waiver is permitted by law.

SECTION 19. Return of Equipment Upon Termination of Lease. (1) Promptly upon the expiration of the original or of any extended term of this Lease with respect to the Equipment or upon termination of this Lease pursuant to Section 18 hereof), Lessee shall, at its own cost, forthwith deliver possession of the Equipment to Lessor in good order and repair, ordinary wear and tear excepted, and in condition satisfactory for interchange service under rules of the Association of American Railroads (or any successor). In any event, Lessee shall deliver the Equipment to Lessor not later than thirty (30) days after the expiration or termination of this Lease. For the purpose of delivering possession of the Equipment to Lessor as above required, Lessee shall at its own cost and expense forthwith assemble the Equipment and place it upon such storage track of Lessee as Lessor may reasonably designate, and Lessee shall permit Lessor to store such Equipment on such tracks at the risk of Lessee for a period of not exceeding one month (three months in the case of a termination of the Lease by Lessor pursuant to Section 18 hereof) from the date of such delivery by Lessee until Lessor shall have sold or otherwise disposed of the Equipment, free of charge to Lessor, and shall, at the cost and expense of Lessee, transport the Equipment at any time within such one month period (or three month period, as the case may be), to any place or places on the lines of railroad operated by it or its affiliates, all as directed by Lessor. The assembling, delivery, storage and transporting of the Equipment, as hereinbefore provided, are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises Lessor shall be entitled to a decree against Lessee requiring specific performance of the covenants of Lessee to so assemble, deliver, store and transport the Equipment. During any storage period, Lessee will permit Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of the Equipment, to inspect the same, provided that Lessor or persons designated by it execute appropriate releases of liability for personal injury, in form provided by Lessee. The Equipment, returned to the Lessor,

pursuant to this Section 19 shall be in the same operating order, repair and condition as when originally delivered to the Lessee hereunder, ordinary wear and tear excepted.

(2) Without in any way limiting the obligations of Lessee under the foregoing provisions of this Section, Lessee hereby irrevocably appoints Lessor and any assignee of any rights hereunder, and each of them, as the agent and attorney of Lessee, with full power and authority, at any time while Lessee is obligated to deliver possession of the Equipment or any part thereof to Lessor, to demand and take possession of such Equipment in the name and on behalf of Lessee from whomsoever shall be at the time in possession of such Equipment. In connection therewith Lessee will supply Lessor with such documents as Lessor may reasonably request.

SECTION 20. Options

(1) Lessee shall have the right to renew this Lease with respect to the Equipment at the end of the primary ten year lease term for either (a) one (1) five year renewal term at the then Fair Rental Value not to exceed fifty percent of the monthly rental during the primary lease term, as set forth in Schedule B hereto, payable on the last day of each calendar month of the extended term; or (b) for up to five (5) consecutive one-year renewal periods at the then Fair Rental Value not to exceed fifty percent of the average monthly rental during the primary lease term, as set forth in Schedule B hereto, payable on the last day of each month of the extended term. All such payments shall be in arrears. The other terms and conditions of any such renewal period shall be the same as those contained herein other than this Section 20. To exercise any of such renewal options, Lessee must give Lessor written notice not more than two hundred seventy (270) days and not less than one hundred eighty (180) days prior to the expiration of the Lease (including any renewal period), and such option may only be exercised if the Lease has not been earlier terminated and Lessee is not in default under the Lease.

(2) If Lessee has duly exercised either its one five-year renewal option or all five of its consecutive one-year renewal options, then during the fifth year of the renewal period Lessee may elect to purchase the Equipment for its then Fair Market Value not to exceed three hundred thirty-eight thousand five hundred fifteen dollars ninety-five cents (\$338,515.95). This option must be exercised by written notice delivered to Lessor not earlier than April 1, 2000, and not later than July 1, 2000, and such option may only be exercised if the Lease has not been earlier terminated and Lessee is not in default under the Lease.

SECTION 21. Tax Indemnification. Lessee hereby warrants to Lessor that the Purchase Price of the Equipment is eligible for depreciation deductions under Section 168 of the Internal

Revenue Code of 1954, as amended (the "Code"). Lessee makes no other warranty under the Code with respect to the Equipment.

If the Purchase Price of the Equipment is not eligible for depreciation deductions under Code Section 168, and such event shall not be caused by an act or failure to act of Lessor, then Lessee shall immediately pay to Lessor as supplemental rent, a sum which, after deduction of all taxes required to be paid by Lessor in respect of the receipt thereof under the laws of the United States or any state or local government or taxing authority in the United States, shall be equal to an amount payable at the time of any loss of such depreciation deduction in a lump sum for each calendar year (or portion thereof) for which such depreciation deduction shall or will thereafter be disallowed, sufficient to give Lessor the same after-tax cash flow for such taxable year (or portion thereof) as would have resulted had such depreciation deductions been allowed to Lessor in the amounts and at the times such deductions would otherwise have been allowed, together with any interest, addition to tax or penalty which may be assessed by the United States Government or any state or local taxing authority against Lessor in connection with such loss or recomputation of depreciation deductions, which amounts shall be payable, together with interest thereon from the date of payment by Lessor to the date the Lessee shall reimburse the Lessor in accordance with the provisions of this Section at a rate set forth in subsection 3(2) hereof, on written demand made at any time after payment of the consequential additional income tax.

SECTION 22. Recording. Lessee shall at its expense promptly cause this Lease and the Security Agreement and every other instrument in addition or supplementary thereto, to be filed and recorded with the Interstate Commerce Commission in accordance with Title 49, Section 11303 of the United States Code, and Lessee shall at its expense promptly from time to time do and perform any other act and execute, acknowledge, deliver, file, register, record and deposit (and refile, reregister, rerecord or redeposit whenever required) any and all further instruments required by law or reasonably requested by Lessor for the purpose of proper protection, to the satisfaction of counsel for Lessor and Assignee, of Lessor's ownership interest and Assignee's security interest in the Equipment and the rights under this Lease or for the purpose of carrying out the intention of this Lease; and promptly after each such filing, upon request of Lessor and/or Assignee, Lessee shall provide an opinion or opinions of counsel for Lessee with respect thereto, in each case satisfactory to Lessor and/or Assignee.

SECTION 23. Survival of Covenants. Any other provisions contained in this Lease to the contrary notwithstanding, it is hereby agreed that the provisions of Sections 4, 6, 14, 15, 16, 17, 18 and 19 hereof shall survive the expiration or termination hereof.

SECTION 24. Notices. Any notice permitted or required to be given by either party hereto to the other shall be deemed to have been given when personally delivered or delivered to a United States post office first-class postage prepaid or to a telegraph office addressed as follows:

If to the Lessor: CIS Rail Corporation
909 Montgomery Street, 3rd Floor
San Francisco, CA 94132

Attention: Mr. Stephen C. Bieneman

If to Lessee: Missouri-Kansas-Texas Railroad
Company
701 Commerce Street
Dallas, Texas 75202

Attention: Mr. Karl R. Ziebarth

or addressed to either party at such other address as such party shall hereafter furnish to the other party in writing. Any notice hereunder to any assignee of Lessor or of Lessee shall be deemed to be properly served if delivered or mailed certified or registered mail, return receipt requested, to such assignee at such address as may have been furnished in writing to Lessor or Lessee, as the case may be, by such assignee.

SECTION 25. Section Headings. All section headings are inserted for convenience only and shall not affect any construction or interpretation of this Lease.

SECTION 26. Law Governing. This Lease and all rights and obligations hereunder shall be governed by and construed in accordance with the law of the State of California; provided, however, that any remedies herein provided which shall be valid under the law of the jurisdiction where proceedings for the enforcement hereof shall be taken shall not be affected by any invalidity thereof under the law of the State of California.

SECTION 27. Successors and Assigns. Subject to the provisions of Section 17 hereof, this Lease shall be binding upon and shall inure to the benefit of Lessor and Lessee, and their respective successors and assigns, and no other persons shall have or acquire any right under or by virtue of this Lease.

SECTION 28. Certain Applicable Laws. Any provision of this Lease which is prohibited or unenforceable under the applicable law of any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining

provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provisions in any other jurisdiction. Where, however, the provisions of any such applicable law may be waived, they are hereby waived to the full extent permitted by law, to the end that this Lease shall be deemed to be a valid and binding agreement enforceable in accordance with its terms.

SECTION 29. Modification. No variation of this Lease and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized officers of Lessor and Lessee.

SECTION 30. Definitions. If and so long as this Lease is assigned to the Assignee (or any successor thereto) for collateral purposes, wherever the term "Lessor" is used in this Lease it shall also apply and refer to the Assignee and any successors thereto unless the context shall otherwise require and except that the Assignee shall not be subject to any liabilities or obligations under this Lease; and the fact that the Assignee is specifically named in certain provisions shall not be construed to mean that the Assignee (and any successors thereto) is not entitled to the benefits of other provisions where only the Lessor is named or where only the Assignee, as the case may be, is named.

SECTION 31. Execution. This Lease may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same contract, which shall be sufficiently evidenced by any such original counterpart.

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be duly executed as of the day, month and year first above written.

CIS RAIL CORPORATION

By: 


Its: President

MISSOURI-KANSAS-TEXAS RAILROAD COMPANY

By: 

Its: Vice President

Attest:


Secretary

STATE OF CALIFORNIA)
) SS.:
COUNTY OF SAN FRANCISCO)

On this 27 day of June, 1985, before me, Cleo De La Montanya, a Notary Public of said State, duly commissioned and sworn, personally appeared Stephen C. Bieneman, to me personally known, who by me being duly sworn, says that he is President of CIS Rail Corporation, a California corporation, and that the foregoing instrument was signed and sealed on behalf of said corporation for the purposes and consideration therein expressed, and as the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Cleo De La Montanya
Notary Public

STATE OF TEXAS)
) SS.:
COUNTY OF DALLAS)

On this 27th day of JUNE, 1985, before me, a Notary Public of said State, duly commissioned and sworn, on this day personally appeared W. H. Zeidel, known to me to be the person whose name is subscribed to the foregoing instrument, and known to me to be a Vice President of Missouri-Kansas-Texas Railroad Company, a Delaware corporation, and acknowledged to me that he executed said instrument for the purposes and consideration therein expressed, and as the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Virginia A. Schoeneberger
Notary Public
Virginia A. Schoeneberger

[SEAL]

0216T

SCHEDULE A

EQUIPMENT DESCRIPTION

One (1) General Motors Corporation (Electromotive Division) Model SD-40-2, 3,000 horsepower locomotive constructed pursuant to Specification 8087, and rebuilt pursuant to the Locomotive Manufacturing Agreement dated as of December 20, 1984, between Lessor and Lessee, bearing Lessee's road number 637.

SCHEDULE B

RENTAL PAYMENTS AND OPTION PRICES

1. Interim Rental. For each day from and including the lease commencement date to and including December 31, 1985, the rental per day shall be .04722% of the Purchase Price of the Equipment. Such rental shall be paid on the last day of each month from the month that includes the lease commencement date to and including December 31, 1985.
2. Base Term Rental. During the ten year base lease term commencing January 1, 1986, and ending December 31, 1995, rental shall be paid monthly in arrears in one hundred twenty consecutive installments. The first sixty such installments, commencing January 31, 1986, and ending December 31, 1990, shall each be in an amount equal to \$1.2748% of the Purchase Price of the Equipment. The last sixty such installments, commencing January 31, 1991, and ending December 31, 1995, shall each be in an amount equal to 1.5581% of the Purchase Price of the Equipment.

Renewal Term Rental. Rental during either the five year renewal term or any one-year renewal term shall be the lesser of (i) Fair Rental Value determined as set forth below or (ii) fifty percent (50%) of the average monthly rental during the ten year base lease term.

Fair Rental Value shall be determined on the basis of and shall be equal to the rental which would obtain in an arm's length transaction between an informed and willing lessee-user (specifically excluding a used equipment dealer) and an informed and willing lessor under no compulsion to lease and on the assumption that the Equipment will, at the end of the Lease term, be free and clear of all liens and encumbrances, and in the condition as would be required upon return pursuant to Section 19 of the Lease; and in such determination, costs of removal from the location of current use shall not be a deduction from such value. If Lessor and Lessee are unable to agree upon a determination of the Fair Rental Value of the Equipment within 20 days after any notice of exercise pursuant to Section 20 of the Lease has been received by Lessor, such value shall be determined in accordance with the foregoing definition by a qualified independent Appraiser as Lessor and Lessee may mutually agree upon, or failing such agreement, the American Appraisal Company, Milwaukee, Wisconsin, or its successors. The Appraiser shall be furnished with a copy of the Lease and be instructed to make

such determination on the basis set forth herein within a period of 90 days following appointment, and shall promptly communicate such determination in writing to Lessor and Lessee. The expenses and fees of the Appraiser shall be borne by the party whose written proposal containing a Fair Rental Value offer varied the most from the determination of Fair Rental Value by such Appraiser, provided that if only one party makes a written offer, such expenses and fees shall be borne by the other party.

4. Purchase Option. Pursuant to and subject to Section 20 of the Lease, at the end of either the five year renewal term or all five one-year renewal terms, Lessee has the right to exercise a purchase option for the purchase of all of the Equipment for the lesser of (i) Fair Market Value determined as set forth below or (ii) the amount of \$338,515.95 (44.5% of the Purchase Price).

Fair Market Value shall be determined on the basis of and shall be equal to the price which would obtain in an arm's length transaction between an informed and willing buyer (specifically excluding a used equipment dealer) and an informed and willing seller, under no compulsion to sell and on the assumption that the Equipment will, at the end of the Lease term, be free and clear of all liens and encumbrances, and be in the condition as would be required upon its return pursuant to Section 19 of the Lease; and in such determination, costs of removal from the location of current use shall not be a deduction from such value. If Lessor and Lessee are unable to agree upon a determination of the Fair Market Value of the Equipment within 20 days after any such notice of exercise has been received by Lessor, such value shall be determined in accordance with the foregoing definition by a qualified independent Appraiser as Lessor and Lessee may mutually agree upon, or failing such agreement, the American Appraisal Company, Milwaukee, Wisconsin, or its successors. The Appraiser shall be furnished with a copy of the Lease and be instructed to make such determination on the basis set forth herein within a period of 90 days following appointment, and shall promptly communicate such determination in writing to Lessor and Lessee. The expenses and fees of the Appraiser shall be borne by the party whose written proposal containing a Fair Market Value offer varied the most from the determination of Fair Market Value by such Appraiser, provided that if only one party makes a written offer, such expenses and fees shall be borne by the other party.

SCHEDULE C

number of base rent pmts made	date	-----Casualty Value-----	
		amount	% of cost
0	Jan 1, 1986	813,022.75	106.8768
1	Feb 1, 1986	815,592.07	107.2145
2	Mar 1, 1986	818,319.41	107.5731
3	Apr 1, 1986	820,892.59	107.9113
4	May 1, 1986	822,558.82	108.1304
5	Jun 1, 1986	824,350.01	108.3658
6	Jul 1, 1986	825,205.26	108.4782
7	Aug 1, 1986	826,155.34	108.6031
8	Sep 1, 1986	827,204.61	108.7411
9	Oct 1, 1986	827,291.18	108.7525
10	Nov 1, 1986	827,444.84	108.7727
11	Dec 1, 1986	827,668.86	108.8021
12	Jan 1, 1987	826,900.28	108.7011
13	Feb 1, 1987	826,167.74	108.6048
14	Mar 1, 1987	825,473.34	108.5135
15	Apr 1, 1987	824,345.33	108.3652
16	May 1, 1987	822,259.04	108.0909
17	Jun 1, 1987	820,160.63	107.8151
18	Jul 1, 1987	817,602.21	107.4788
19	Aug 1, 1987	815,016.42	107.1389
20	Sep 1, 1987	812,402.96	106.7953
21	Oct 1, 1987	809,687.58	106.4384
22	Nov 1, 1987	806,943.72	106.0777
23	Dec 1, 1987	804,171.07	105.7132
24	Jan 1, 1988	801,295.37	105.3351
25	Feb 1, 1988	798,390.05	104.9532
26	Mar 1, 1988	795,454.78	104.5674
27	Apr 1, 1988	792,456.38	104.1732
28	May 1, 1988	789,355.69	103.7656
29	Jun 1, 1988	786,223.79	103.3539
30	Jul 1, 1988	782,988.72	102.9286
31	Aug 1, 1988	779,721.56	102.4991
32	Sep 1, 1988	776,421.97	102.0654
33	Oct 1, 1988	773,018.00	101.6179
34	Nov 1, 1988	769,580.69	101.1661
35	Dec 1, 1988	766,109.71	100.7098
36	Jan 1, 1989	762,533.08	100.2396
37	Feb 1, 1989	758,921.84	99.7649
38	Mar 1, 1989	755,275.65	99.2856
39	Apr 1, 1989	751,562.29	98.7974
40	May 1, 1989	747,744.20	98.2955
41	Jun 1, 1989	743,889.73	97.7888
42	Jul 1, 1989	739,929.57	97.2682
43	Aug 1, 1989	735,932.08	96.7427
44	Sep 1, 1989	731,896.86	96.2123
45	Oct 1, 1989	727,754.58	95.6678
46	Nov 1, 1989	723,573.59	95.1182
47	Dec 1, 1989	719,353.48	94.5634

Schedule C
Page Two

number of base rent pmts made	date	-----Casualty Value-----	
		amount	% of cost
48	Jan 1, 1990	715,024.92	93.9944
49	Feb 1, 1990	710,656.21	93.4201
50	Mar 1, 1990	706,246.96	92.8404
51	Apr 1, 1990	701,766.11	92.2514
52	May 1, 1990	697,267.17	91.6600
53	Jun 1, 1990	692,726.39	91.0631
54	Jul 1, 1990	688,166.73	90.4637
55	Aug 1, 1990	683,564.43	89.8587
56	Sep 1, 1990	678,919.04	89.2480
57	Oct 1, 1990	674,253.51	88.6347
58	Nov 1, 1990	669,544.07	88.0156
59	Dec 1, 1990	664,790.26	87.3907
60	Jan 1, 1991	660,015.01	86.7630
61	Feb 1, 1991	653,069.78	85.8500
62	Mar 1, 1991	646,055.82	84.9280
63	Apr 1, 1991	638,982.82	83.9982
64	May 1, 1991	631,881.65	83.0647
65	Jun 1, 1991	624,709.71	82.1219
66	Jul 1, 1991	617,508.24	81.1752
67	Aug 1, 1991	610,234.62	80.2190
68	Sep 1, 1991	602,888.09	79.2533
69	Oct 1, 1991	595,509.85	78.2834
70	Nov 1, 1991	588,057.26	77.3037
71	Dec 1, 1991	580,529.53	76.3141
72	Jan 1, 1992	572,967.86	75.3201
73	Feb 1, 1992	565,329.56	74.3160
74	Mar 1, 1992	557,613.84	73.3017
75	Apr 1, 1992	549,838.52	72.2796
76	May 1, 1992	542,032.16	71.2534
77	Jun 1, 1992	534,146.08	70.2167
78	Jul 1, 1992	526,227.41	69.1758
79	Aug 1, 1992	518,227.44	68.1242
80	Sep 1, 1992	510,145.29	67.0617
81	Oct 1, 1992	502,028.11	65.9946
82	Nov 1, 1992	493,827.12	64.9166
83	Dec 1, 1992	485,541.45	63.8274

number of base rent pmts made	date	-----Casualty Value-----	
		amount	% of cost
84	Jan 1, 1993	477,218.19	62.7332
85	Feb 1, 1993	468,808.55	61.6277
86	Mar 1, 1993	460,311.62	60.5107
87	Apr 1, 1993	451,747.79	59.3850
88	May 1, 1993	443,149.71	58.2547
89	Jun 1, 1993	434,461.72	57.1126
90	Jul 1, 1993	425,737.70	55.9658
91	Aug 1, 1993	416,922.01	54.8069
92	Sep 1, 1993	408,013.64	53.6358
93	Oct 1, 1993	399,066.45	52.4597
94	Nov 1, 1993	390,024.75	51.2711
95	Dec 1, 1993	380,887.52	50.0700
96	Jan 1, 1994	371,708.59	48.8633
97	Feb 1, 1994	362,432.22	47.6439
98	Mar 1, 1994	353,057.36	46.4115
99	Apr 1, 1994	343,607.33	45.1692
100	May 1, 1994	334,119.40	43.9220
101	Jun 1, 1994	324,530.01	42.6614
102	Jul 1, 1994	314,900.73	41.3956
103	Aug 1, 1994	305,167.98	40.1162
104	Sep 1, 1994	295,330.64	38.8230
105	Oct 1, 1994	285,450.23	37.5241
106	Nov 1, 1994	275,463.14	36.2113
107	Dec 1, 1994	265,368.21	34.8842
108	Jan 1, 1995	255,436.45	33.5786
109	Feb 1, 1995	245,403.42	32.2597
110	Mar 1, 1995	235,268.26	30.9274
111	Apr 1, 1995	225,400.09	29.6302
112	May 1, 1995	216,392.67	28.4461
113	Jun 1, 1995	207,332.29	27.2551
114	Jul 1, 1995	199,170.36	26.1821
115	Aug 1, 1995	190,994.69	25.1074
116	Sep 1, 1995	182,808.02	24.0312
117	Oct 1, 1995	175,563.49	23.0788
118	Nov 1, 1995	168,350.71	22.1307
119	Dec 1, 1995	161,174.29	21.1873
120	Jan 1, 1996	154,989.31	20.3742